

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
ANDRES PEREZ,

Petitioner,

-v-

UNITED STATES OF AMERICA,

Respondent.
-----X

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 1-29-06

04 Civ. 7148 (JSR)

ORDER

JED S. RAKOFF, U.S.D.J.

On November 7, 2006, the Honorable Kevin N. Fox, United States Magistrate Judge, issued a Report and Recommendation in the above-captioned matter recommending that this petition for habeas corpus be dismissed.

Petitioner has failed to file any objection to the Report and Recommendation, and, for that reason alone, has waived any right to further appellate review. See Thomas v. Arn, 474 U.S. 140, 147-48 (1985); Mario v. P & C Food Markets, Inc., 313 F.3d 758, 766 (2d Cir. 2002); Spence v. Superintendent, Great Meadow Corr. Facility, 219 F.3d 162, 174 (2d Cir. 2000). Accordingly, the Court hereby adopts the Report and Recommendation and, for the reasons therein, dismisses Perez's habeas petition with prejudice. In addition, because petitioner has not made a substantial showing of the denial of a constitutional right, a certificate of appealability will not issue, see 28 U.S.C. § 2253, and the Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal from this Order would not be taken in good faith.

Moreover, as petitioner's claim lacks any arguable basis in law or fact, permission to proceed in forma pauperis is also denied. 28 U.S.C. § 1915(g); see also Seimon v. Emigrant Savs. Bank (In re Seimon), 421 F.3d 167, 169 (2d Cir. 2005). Clerk to enter judgment.

SO ORDERED.



JED S. RAKOFF, U.S.D.J.

Dated: New York, New York
January 29, 2007